REMARKS

The Application has been carefully reviewed in light of the Office Action mailed May 25, 2006. At the time of the Office Action Claims 1, 2 and 4-9 were pending in this patent application; Claims 2-4 and 6-9 are withdrawn from consideration; and Claims 1 and 5 have been rejected. Claims 1 and 2 and Claims 4 through 8 have been amended to clarify the language of such claims, and not in response to the rejection of such claims by the Examiner. Reconsideration and allowance of all pending claims is respectfully requested in view of the following remarks.

Rejections Under 35 U.S.C. § 112:

Claims 5 and 6 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Applicant has amended the specification as previously amended to be more consistent with the language as originally filed in claims 5 and 6 of the application. The amendment does not introduce new matter as the subject matter. Thus, Applicants respectfully request that the rejection of Claims 5 and 6 under 35 U.S.C. 112 be withdrawn.

Rejections Under 35 U.S.C. § 102:

Claims 1, 2, and 4-9 stand rejected under 35 U.S.C. 102(e) as being anticipated over U.S. Patent No. 6,047,274 to Johnson et al. ("*Johnson*"). Johnson is directed to an electronic auction system so that energy providers can bid on providing energy to various consumers. The auction system is in no way analogous to the claimed invention and Applicants respectfully assert that Johnson does not disclose, teach, or suggest, much less anticipate, the inventions recited by any of the currently pending claims. The Office Action asserts that MPEP §2106(b), which Applicants assume is meant to refer to MPEP §2106(IV)(B)(1)(b), should be interpreted to enable Examiner to disregard the presence of "telecommunication service[s]" in the pending claims. However, MPEP §2106 is directed to determining whether or not the subject matter of a claim is statutory subject matter protected by the patent laws, and in particular 35 U.S.C. §101. There is nothing within MPEP §2106 that states that it should be used when considering whether a claim is anticipated by a particular prior art reference. More particularly, there is nothing

within MPEP §2106 that instructs an Examiner to ignore particular words of a claim because those words, taken alone and out of context, are not patentable subject matter. Even if the characterization of MPEP §2106 was correct, other statements in MPEP §2106 requiring that descriptive limitations be considered when combined with functional limitations appear to have been ignored in the Office Action. More particularly, MPEP §2106 teaches that "[n]onfunctional descriptive material may be claimed in combination with other functional descriptive [material] to provide the necessary functional and structural interrelationship..." Thus, Applicants respectfully assert that the limitation "telecommunication service[s]" be used in construing the recited claims relative to any potential prior art. As Johnson is in no way related to the purchase or provisioning or telecommunication services, Applicants respectfully assert that none of the pending claims are anticipated by Johnson, that Claims 1 through 2 and Claims 4 through 9 are allowable, and request consideration of the same.

Even if Johnson were directed to the purchasing or provisioning of telecommunication services, Johnson would still not anticipate any of the recited claims. For example, with regard to Claim 1, as amended, the Office Action asserts that block 29 of Figure 4 of Johnson anticipates "storing in memory a set of responses to purchase requests for telecommunication services associated with a plurality of service providers." However, block 29 merely recites "receives bids from each Provider." Receiving bids from service providers does not anticipate "storing in memory information associated with one or more of a plurality of service providers, the information being used to determine one or more responses to a request to purchase at least one telecommunication service" as recited by amended Claim 1, particularly when the request later recited by Claim 1 "is received after the information associated with one or more of a plurality of service providers is stored." Bids made in response to a request to provide energy do not anticipate the foregoing limitation, at least because they are not stored prior to a request is received. There are other elements of Claim 1 not anticipated by Johnson.

Furthermore, Johnson does not teach "preventing a requester from accepting the identified response after the session is terminated by the requester." The Office Action makes references to Johnson, column 12, lines 45-54, where the system of Johnson provides a "fail-safe mechanism, to avoid use of old bids that have not been changed due to communication failure . . . at the expiration of the time limit, the expired bid could default to a preset default bid or to no

bid" (column 12, lines 47—52). The system of Johnson is an auction system, which is made clear by the above-cited description, that enables bidders to bid on energy supply. The bids to which Johnson refers are bids to the suppliers and the fail-safe mechanism prevents the suppliers from accepting bids after a certain time.

The fail-safe mechanism of Johnson is not the same as "preventing a requester from accepting the identified response after the session is terminated by the requester." First, Johnson as cited, is dealing with preventing suppliers (of energy services) from accepting old bids, whereas Applicants' claimed invention is directed to preventing a requester (*i.e.,* purchaser) from accepting a response from a supplier (of telecommunication services). Second, the Johnson system is that of an auction that receives bids from bidders to suppliers, thereby allowing suppliers to accept a bid, whereas Applicants' claimed invention receives "requests" from requesters to suppliers and a "response" is sent back to the requester to accept the response. Third, the Johnson system being an auction where bidders submit bids to the suppliers does not provide for "establishing a session . . . for considering the purchase of the at least one telecommunication service," as Johnson merely provides for a bidding process to occur over certain time periods (column 12, lines 5-7) and does not contemplate a "session' or "preventing a requester from accepting the identified response after the session is terminated by the requester." Fourth, as amended in claim 1, "the session is terminated by the requester," which is neither taught or suggested by Johnson as, although not a "session," the time periods of Johnson are ended at set times because of the time at which power is to be delivered over the course of a day. Because Johnson does not teach each and every element of amended claim 1 as recited, Applicants' respectfully request that the rejection of claim 1 under 35 U.S.C. 102(e) be withdrawn.

It is further asserted in the Office Action that Claim 8 is anticipated by Johnson. However, the only reasoning for such anticipation recited is "(see response to claim 1)." As Claim 1 is a method claim and amended Claim 8 is a system claim, and as the limitations of such claims are similar, but not identical, Applicants respectfully submit that Applicants cannot derive the basis for the rejection. Applicants reiterate that Johnson cannot anticipate Claim 8 because Johnson is an auction system for energy and do not anticipate the invention recited in amended Claim 8, as Johnson does not teach, at least, "preventing the acceptance to the response after the

session is terminated by the requester." Similarly, Johnson could not anticipate claim 9, particularly as claim 9 further recites "preventing the service provider from modifying the set of responses during the session." The Office Action asserts that Johnson at column 6, lines 10 through 20, recites such a limitation with regard to the discussion of Applicants' Claims 5 and 6. However, column 6 in fact teaches away from such a limitation, stating that bids may be modified during the bidding process at line 19 of column 6.

For at least the foregoing reasons, Applicants respectfully assert that amended claim 1, claims 2 and 4 through 7 that depend from claim 1, and claims 8 and 9 are allowable over Johnson. Reconsideration and favorable action are respectfully requested.

CONCLUSION

For the foregoing reasons, and for other apparent reasons, Applicants respectfully request reconsideration and favorable action. If the Examiner feels a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Applicants believe that no other fee is due. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-2816 of Patton Boggs, L.L.P.

Respectfully submitted,

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